IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Revision No. 187 of 2007.
Date of Decision: February 22, 2007.

Ram Chander @ Nanke

....**Petitioner**

through
Mrs. Geeta Sharma, Advocate

Versus

State of Haryana

...**Respondents**
through
Mr.R.D.Sharma, DAG, Haryana.

Mr. B.S.Dhillon, Advocate,
for the complainant.

CORAM:

HON'BLE MR. JUSTICE SURYA KANT.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

SURYA KANT,J.(ORAL)

This Revision Petition is directed against the order dated 8th December, 2006 (Annexure P-2) passed by the learned Sessions Judge, Ambala, whereby an application moved by the petitioner that he was less than 18 years of age on the date of the alleged occurrence and is, thus, liable to be treated as a juvenile, has been dismissed.

[2]. In addition, the petitioner also impugns the order dated 21st November, 2006 passed by the learned Sessions Judge, Ambala (Annexure P-1) whereby his application for adducing additional

evidence under Section 311 Cr.P.C. has been dismissed.

[3]. The facts may be noticed briefly. The petitioner is named as an accused in FIR No.65 dated 27th August, 2004, under Sections 364/302/377/201 IPC, registered at Police Station, Naggal, District Ambala. As per the allegations, the petitioner firstly committed an unnatural act with a boy, aged 11/12 years old, who was son of his employer and thereafter strangulated him to death.

[4]. The petitioner moved an application in which it was stated that as per the School Leaving Certificate issued by the Government Primary School, Bahinder Khurd, District Hardoi, his date of birth is 21st December, 1987 and, thus, he was a juvenile on the date when the alleged offence was committed. The petitioner accordingly sought transfer of the trial to the Juvenile Justice Board. His application, however, was turned down by the learned Sessions Court vide order dated 30th July, 2005 which was,however, set aside by this Court vide order dated 14th February, 2006 and it was directed that the petitioner be afforded an opportunity to prove his School Leaving Certificate as also to produce other evidence in support of the plea that he was a juvenile.

[5]. In terms of the opportunity granted by this Court, the petitioner led oral as well as documentary evidence in support of his plea.

[6]. Two sets of documents, i.e., Ex.A1 to A-5 which is the record of the school where the petitioner had allegedly studied and a certificate Mark “A”, are being relied upon by the petitioner.

[7]. As regard to the school records, the learned Sessions

Judge has discarded the same for the reason that in all the documents (Ex.A1 to A-5), the name of the student is shown to be “Ram Kumar” (and not Ram Chander). In order to show that these documents actually pertain to him only, the petitioner has produced the document Mark “A”. The said document is a certificate allegedly issued by the Gram Panchayat Vikas Adhikari of Gram Panchayat, Bahinder Khurd (Hardoi), wherein the petitioner's name is mentioned as “Ram Kumar @ Ram Chander”. To give more strength to his above noticed plea, the petitioner also relies upon the statement of RW1 (Kallu son of Ragga), who is Chowkidar of village Bahinder Khurd. The said witness in his cross-examination has deposed that “Ram Chander is also called by the name of Ram Rattan. Again said Ram Chander is also called by the name of Ram Kumar”.

[8]. On the other hand, the prosecution produced Sunder Lal (RW2), who is presently posted as Gram Panchayat Vikas Adhikari of village Bahinder Khurd. He has deposed that the certificate Mark “A” was not issued by him. He could not recognize the signatures of the official who is stated to have signed the certificate Mark “A”. He further deposed that there is no original record of Mark “A” with him. The prosecution also produced Ramesh Chander Verma (RW1), who was posted as Gram Panchayat Vikas Adhikari, Bahinder Khurd immediately before Sunder Lal. This witness has categorically deposed that there is no entry in the register regarding the issuance of certificate Mark “A”. Similarly, in the original register which he brought and produced in Court, there was no entry of Muni Lal son of Durga – father of the petitioner. He further deposed that at Sr.

No.140, i.e., the Serial No. given to the certificate Mark "A", the entry in the original register pertains to one Mangal son of Chhangai and not the family of the petitioner. The learned Sessions Judge thereafter has also referred to the averments made by the petitioner in his application that his date of birth is 21st December, 1987, whereas in the certificate relied upon by him, his date of birth is shown as 15th July, 1987.

[9]. After a detailed discussion of the oral as well as documentary evidence, the learned Sessions Judge has held and rightly so that the certificate Mark "A", on the basis of which the petitioner wants to suggest that his name is Ram Chander @ Ram Kumar, is a forged and fabricated document.

[10]. In the light of the above discussion, no exception can be taken to the view formed by learned Sessions Judge, Ambala vide his impugned order dated 8th December, 2006.

[11]. Coming to the 2nd impugned order dated 21st November, 2006 whereby the petitioner's application to adduce additional evidence has been rejected, it may be noticed that in terms of the order dated 14.2.2006 passed by this Court, the petitioner has been given full opportunity to produce his entire evidence. The evidence was closed on the basis of his own statement. The petitioner, thus, can not be permitted to continue with these proceedings endlessly, especially when he has miserably failed to make out as to how the deposition of the additional witnesses, sought to be examined by him, would be of any help to determine his age on the date when the alleged occurrence took place.

[12]. In this view of the matter, I do not find any legal infirmity in the impugned order dated 21st November, 2006 also.

[13]. Consequently, this revision petition is dismissed.

February 22, 2007. **(SURYA KANT)**
dinesh **JUDGE**